THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 14079 OF 2007

Dated 25th July, 2007

Between:

B.V.S.Ruthvik

…Petitioner

And

The Government of Andhra Pradesh,
represented by its Principal Secretary,
Education Department, Secretariat Buildings,
Hyderabad and others.

…Respondents.

ORAL ORDER:

This writ petition is filed by a student, represented by his natural guardian and father, seeking a declaration that the action of the respondents in denying the admission to the petitioner into the I Class for the academic year 2007-08 in

the second respondent – Hyderabad Public School, at Begumpet, Hyderabad is illegal and arbitrary.

The petitioner had applied for admission into I Standard in Hyderabad Public School and he appeared for the written test conducted in the month of March, 2007 to shortlist the candidates. He was shortlisted and called for medical test on. He attended the said test. It is stated that, on enquiry, the petitioner was informed that the Medical Board assessed the petitioner as having over-age to be admitted into I Class in Hyderabad Public School, and, therefore, he was not selected as per the rules of admission.

The Hyderabad Public School is a society registered under the Societies Registration Act and admissions to the various classes are governed by the Rules and Regulations in respect of Registration, Admission and Withdrawals of Pupils (hereinafter referred to as "the Rules"). As per the rules of admission, a candidate seeking admission to I Class should have been born after 31 May, 2001 but before 31 May, 2002 i.e. should have completed 5 years of age as on 31.5.2007 but should not have completed 6 years of age as on that date. As per Rule 6 (e) of the Rules, appearance before the Medical Board constituted by the School for physical fitness and verification of age is absolutely necessary and the decision of the Medical Board shall be final in all respects.

In this case, the petitioner claims to have born on 5.1.2002 in Geeta Maternity Nursing Home, Secunderabad and the Municipal Corporation of Hyderabad has issued Birth Certificate certifying his date of Birth as 5.1.2002. The house-hold card issued by the Civil Supplies Department also discloses the date of birth of the petitioner as 5.1.2002 and in spite of the specific proof of date of birth issued by the competent authority, the petitioner was subjected to Medical Test and the Medical Board without conducting the required test determined the age of the petitioner on the basis of Dental Examination. It is stated by the petitioner that the dental age of the person is determined by many factors. Persons age is determined with the help of Skeletal Age and Skeletal assessment is done with the help of X-rays of the hand which has not been done by the Medical Board. It is the grievance of the petitioner that as much as the petitioner has submitted the Date of Birth Certificate issued by the Municipal Corporation of Hyderabad in proof of his of date of birth, it is not open for the respondents to deprive the petitioner of his admission into I Class in the second respondent-school based on the medical test conducted by the Medical Board constituted by the School.

Counter affidavit is filed on behalf of the Hyderabad Public School by its Principal, wherein, while generally denying the allegations of the petitioner, it is

stated that as per the Rules of Admission, appearance before the Medical Board constituted by the school is made compulsory for all those students seeking admission in the school. It is stated that as per the Rules of Admission, the decision of the Medical Board is final. It is stated that in the past, it has been the experience of the school that children with false certificates of date of birth are admitted into the school, which resulted in disparity among the students studying in the same class. It is also stated that to maintain unanimity and similar age group in a particular class, all the candidates are subjected to age verification by the Medical Board and the Medical Board comprising of an E.N.T. Specialist, Dentist, School Medical Officer and Pediatrician has assessed the age of all the applicants. It is stated that the registration of the birth of the petitioner was made with the Municipal Authorities two years after the claimed date of birth and no reasons are stated for the inordinate delay and the same cannot be given currency. The allegation that the Medical Board without conducting required tests determined the age of the petitioner on the basis of the Dental Examination is not true and correct. It is stated that the method adopted by the Medical Board constituted by the School is strictly in accordance with the tested methods of determining the age of a person and the petitioner having participated in the said process cannot now be permitted to challenge the same. The claim of the petitioner that he is entitled to seek admission based on the date of birth which does not tally with the results arrived at by the Medical Board is not acceptable as per the School's admission policy. Therefore, the action of the school cannot be described as arbitrary, illegal and inconsequential.

It is submitted by Shri L.Ravichander, learned counsel appearing for the second respondent – school that the in-house procedure, which is prescribed in the Rules is followed uniformly for all the students and in view of the past experience, to maintain unanimity among the students in the I Class, the medical test was conducted and it is not that the test was conducted only to the petitioner. It is stated that merely because the petitioner did not come up for selection on the ground of over-age, it cannot be said that there is arbitrariness on the part of the respondent-school in not selecting the petitioner.

Though it is the case of the petitioner that the petitioner was born on 5.1.2002, but, only two years thereafter, his date of birth was got registered with the authorities. Though, in normal course, a certificate issued by the authority under the Registration of Births and Deaths Act is accepted, but, however, as it is stated that in view of the experience of the respondent-school that a large number of students are claiming admission basing on false certificates, a team of doctors is constituted for the purpose of assessing the age of all the

applications. When the Rules of Admission provide for such a verification of age by the competent medical team and when such team has assessed the age of all the applicants who were shortlisted in the written examination, it cannot be said that the said assessment or action is illegal and arbitrary. Even the date of birth of the petitioner was not immediately registered. When Rules of Admission specifically stipulate for verification of the age and physical fitness by a team of doctors constituted in that regard and the said team conducted the test and gave its decision, which is final, it cannot be said that there any illegality or irrationality in the said decision. Moreover, such test was conducted to all the students shortlisted in the written test for admission, in view of the past experience of the school that children with false certificate of date of birth are admitted into the school, which indicates that there is no arbitrariness against any one of the students.

In that view of the matter, I do not find any illegality, which warrants interference by this court. The writ petition is dismissed at the stage of admission. No costs.

_____

25 --7—2007 **R.SUBHASH REDDY, J.**